

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

In re M.L. and K.L.

No. 25-739 (Kanawha County CC-20-2024-JA-253 and CC-20-2024-JA-254)

MEMORANDUM DECISION

Petitioner Father J.L.¹ appeals the Circuit Court of Kanawha County’s September 3, 2025, order terminating his parental rights to M.L. and K.L.,² arguing that the circuit court erred in denying his motion for an additional improvement period. Upon our review, we determine that oral argument is unnecessary and that a memorandum decision affirming the circuit court’s order is appropriate. *See W. Va. R. App. P. 21.*

In July 2024, the DHS filed a child abuse and neglect petition alleging, among other things, that the petitioner engaged in domestic violence with the children’s mother. At an adjudicatory hearing in September 2024, the petitioner stipulated to the allegations of domestic violence. As such, the circuit court adjudicated the petitioner as an abusing parent and M.L. and K.L. as abused and neglected children. The court also granted the petitioner a post-adjudicatory improvement period, the terms of which included participation in anger management, domestic violence, parenting education, and adult life skills classes; supervised visitation; random drug and alcohol screening; and any other services recommended by the multidisciplinary team.

In January 2025, the circuit court held a review hearing, during which the parties proffered that the petitioner tested positive for cocaine and marijuana but was working with a service provider to enroll in a drug treatment program. In an order entered following the hearing, the court admonished the petitioner that “marijuana and cocaine are illegal drugs[] and advised that the children will not be returned to his custody unless he pursues a path of recovery.” At another review hearing in March 2025, the DHS informed the court that it had suspended the petitioner’s supervised visits with the children due to additional positive drug screens. Thus, the court set the matter for disposition and advised the petitioner “to look into treatment options.” Thereafter, the petitioner filed a motion for an additional improvement period.

¹ The petitioner appears by counsel Jason S. Lord. The West Virginia Department of Human Services (“DHS”) appears by counsel Attorney General John B. McCuskey and Assistant Attorney General Carl E. Hostler. Counsel Bryan B. Escue appears as the children’s guardian ad litem.

² We use initials where necessary to protect the identities of those involved in this case. *See W. Va. R. App. P. 40(e).*

In July 2025, the circuit court held a final dispositional hearing. The court first heard expert testimony from Jerome Reed, a certifying scientist at Forensic Fluids Laboratories where the petitioner's presumptive positive drugs screens were confirmed. Mr. Reed testified that the equipment used to confirm the petitioner's positive tests eliminated the possibility of false positives. He also explained that it was impossible for an individual to test positive for a substance without ingesting the substance. The court admitted the petitioner's drug screen results as evidence, which showed that the petitioner tested positive for cocaine nine times. The DHS then presented testimony of the petitioner's service provider, who recognized that the petitioner had completed domestic violence classes and consistently participated in parenting and adult life skills classes, supervised visits, and drug screens. The provider explained, however, that the petitioner adamantly denied using cocaine and refused to complete a drug treatment program as recommended. In addition, a Child Protective Services ("CPS") worker testified that the petitioner engaged in domestic violence with a new paramour one month before disposition, despite completing domestic violence classes. The CPS worker explained that the DHS recommended terminating the petitioner's parental rights because the petitioner refused to address his substance abuse issues and continued to engage in domestic violence. Finally, the court heard testimony from the petitioner, who denied using cocaine and disputed the accuracy of his positive drug screens, but could not explain why he had multiple drug screens positive for cocaine.

After considering the evidence, the circuit court found that the petitioner denied using controlled substances, refused to address his substance abuse issue, and continued to engage in domestic violence after receiving services to address the issue. The court further found that because the petitioner denied having a problem to correct, he could not demonstrate a likelihood that he would fully participate in services or that he would successfully complete an additional improvement period. Thus, the court concluded that offering the petitioner more services or a post-dispositional improvement period would be futile. For those same reasons, the court further concluded that there was no reasonable likelihood that the petitioner could correct the conditions of abuse and neglect that led to the filing of the petition in the near future. Accordingly, the court terminated the petitioner's parental rights to M.L. and K.L.³ The petitioner appeals from the dispositional order.

On appeal from a final order in an abuse and neglect proceeding, this Court reviews the circuit court's substantive rulings for abuse of discretion, factual findings are reviewed for clear error, and issues of law are reviewed de novo. Syl. Pt. 1, *In re K.S.*, -- W. Va. --, 930 S.E.2d 400 (2026). Before this Court, the petitioner argues that the circuit court erred by denying his motion for an additional improvement period, claiming that he participated in his services and met the standards for an additional improvement period. We disagree. West Virginia Code § 49-4-610(3)(D) gives circuit courts discretion to grant a parent an additional improvement period when the parent "demonstrates that since the initial improvement period, the [parent] has experienced a substantial change in circumstances" and "is likely to fully participate in a further improvement period." Here, the record shows that there was no change in circumstances since the DHS filed the petition. Despite completing services targeted to remedy the petitioner's issues with domestic violence, the petitioner engaged in it with a new paramour just one month before disposition.

³ The permanency plan for the children is reunification with their mother.

Additionally, the evidence demonstrated that the petitioner would not participate in a further improvement period because he refused to complete a drug treatment program as recommended by his service provider, the DHS, and the circuit court. In fact, at the dispositional hearing, he maintained that he did not use cocaine but could not explain why he tested positive for the substance nine times. We have explained that “[f]ailure to acknowledge the existence of the problem . . . results in making the problem untreatable and in making an improvement period an exercise in futility at the child[ren]’s expense.” *In re Timber M.*, 231 W. Va. 44, 55, 743 S.E.2d 352, 363 (2013) (quoting *In re Charity H.*, 215 W. Va. 208, 217, 599 S.E.2d 631, 640 (2004)). Therefore, the petitioner is entitled to no relief.

For the foregoing reasons, we affirm the circuit court’s September 3, 2025, order.

Affirmed.

ISSUED: September 22, 2026

CONCURRED IN BY:

Chief Justice C. Haley Bunn
Justice William R. Wooton
Justice Charles S. Trump IV
Justice H. L. Kirkpatrick
Justice James W. Flanigan